

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 36146

STATE OF IDAHO,)	2010 Unpublished Opinion No. 378
)	
Plaintiff-Respondent,)	Filed: March 10, 2010
)	
v.)	Stephen W. Kenyon, Clerk
)	
STEVEN WAYNE ROBERTS, aka)	THIS IS AN UNPUBLISHED
LERAJJAREANRA-O-KEL-LY,)	OPINION AND SHALL NOT
)	BE CITED AS AUTHORITY
Defendant-Appellant.)	
)	

Appeal from the District Court of the Seventh Judicial District, State of Idaho, Bonneville County. Hon. Jon J. Shindurling, District Judge.

Order denying I.C.R. 35 motion for correction of an illegal sentence, affirmed.

Steven Wayne Roberts, Boise, pro se appellant.

Hon. Lawrence G. Wasden, Attorney General; Lori A. Fleming, Deputy Attorney General, Boise, for respondent.

Before GUTIERREZ, Judge; GRATTON, Judge;
and MELANSON, Judge

PER CURIAM

Steven Wayne Roberts, aka Lerajjareanra-o-kel-ly pled guilty to possession of a controlled substance. I.C. § 37-2732(c)(1). In exchange for his guilty plea, additional charges including allegations that Roberts was a persistent violator were dismissed. The district court sentenced Roberts to a unified term of seven years, with a minimum period of confinement of three years, to run concurrent with an unrelated sentence. Approximately four years later, Roberts filed an I.C.R 35 motion for correction of an illegal sentence, which the district court denied. Roberts appeals, asserting that his sentence is illegal because his plea agreement was ambiguous. Specifically, Roberts asserts that the plea agreement pursuant to which he pled guilty can be interpreted to require that he be granted credit for time served in this case for time he served in another case.

In *State v. Clements*, 148, Idaho 82, 87, 218 P.3d 1143, 1148 (2009), the Idaho Supreme Court recently held that the term “illegal sentence” under Rule 35 is narrowly interpreted as a sentence that is illegal from the face of the record, i.e., does not involve significant questions of fact or require an evidentiary hearing. Rule 35 is a “narrow rule,” and because an illegal sentence may be corrected at any time, the authority conferred by Rule 35 should be limited to uphold the finality of judgments. *State v. Farwell*, 144 Idaho 732, 735, 170 P.3d 397, 400 (2007). Rule 35 is not a vehicle designed to reexamine the facts underlying the case to determine whether a sentence is illegal; rather, the rule only applies to a narrow category of cases in which the sentence imposes a penalty that is simply not authorized by law or where new evidence tends to show that the original sentence was excessive. *Clements*, 148, Idaho at 87, 218 P.3d at 1148. Roberts’s sentence is well within the statutory maximum for possession of a controlled substance and is not otherwise contrary to applicable law. Therefore, we conclude no abuse of discretion has been shown. Accordingly, the district court’s order denying Roberts’s Rule 35 motion is affirmed.